FILE COPY

SUPREME COURT, U.S.
FILED
APR 30 1940
CHARLES ELMORE CROPLEY
CLERK

No. [redacted] 55

In the Supreme Court of the United States

OCTOBER TERM, 1939

DONALD S. MCCLAIN, PETITIONER

v.

GUY T. HELVERING, COMMISSIONER OF INTERNAL REVENUE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF AND ARGUMENT FOR THE RESPONDENT

In the Supreme Court of the United States

OCTOBER TERM, 1939

No. 914

DONALD S. McCLAIN, PETITIONER

v.

GUY T. HELVERING, COMMISSIONER OF INTERNAL REVENUE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

MEMORANDUM FOR THE RESPONDENT

The Government has filed a petition for certiorari in *Helvering* v. *Thomson,* No. 946, present Term, in which a conflict with the present case is asserted. If certiorari is granted in the *Thomson* case, then obviously the petition should be granted here. Otherwise, the petition should be denied.

Respectfully submitted.

FRANCIS BIDDLE,
Solicitor General.

APRIL 1940.

226513—40

U. S. GOVERNMENT PRINTING OFFICE: 1940